

August 14, 1937

Mr. J. U. Rice  
Registrar of Contractors  
State Building  
Phoenix, Arizona

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**ARIZONA ATTORNEY GENERAL**

Dear Sir:

In answer to your letter dated August 10th, 1937, wherein you state that the Arizona Power Company at Prescott, Arizona, is engaged in selling electric stoves and charging an installation rate of from fifteen to twenty-five dollars and hiring a licensed sub-contractor to install them, and requesting our opinion thereon as to whether the above named Company should be required to have a contractor's license.

Laws of 1933, Chap. 104, Sec. 1, amending laws of 1931, Chap. 102, Sec. 1, provide as follows:

"Necessity for securing license. It shall be unlawful for any person, firm copartnership, corporation, association or other organization, or any combination of any thereof, to engage in the business or act or offer to act in the capacity or purport to have the capacity of contractor within this state without having a license therefor as herein provided, unless such person, firm, copartnership, corporation, association or other organization is particularly exempt as provided in this act. Evidence of the securing of any permit from a governmental agency or the employment of any person on a construction project shall be accepted in any court as prima facie evidence of the existence of a contract. (L. '33, c.104, Sec. 1, amending L. '31, c.102, Sec. 1.)"

And Laws of 1933, Chap. 104, Sec. 3, amending laws of 1931, Chap. 102, Sec. 3, provide as follows:

"Contractor defined. A contractor within the meaning of this act is a person, firm, copartnership, corporation, association, or other organization, or any combination of any thereof, who for either a fixed sum, price, fee, percentage, or other compensation other than wages, undertakes or offers to undertake or purports to have the capacity to undertake to construct, alter, repair, add to or improve any building, highway, road, railroad, excavation, or other structure, project, development or improvement, other than to personalty, or any part thereof; pro-

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vided, that the term contractor, as used in this act, shall include sub-contractor, but shall not include anyone who merely furnishes materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the contractor as herein defined. (L. '33, c. 104, Sec. 3, amending L. '31, c. 102, Sec. 3)."

It is our opinion that if the above named Corporation comes within the above definition of a contractor, it should have a license. But if it is merely engaged in the sale of stoves and not holding itself out as a duly licensed contractor, or undertaking to do business of that character, and charges a fee for installation of stoves by duly licensed sub-contractors, it need not have a contractor's license.

Respectfully submitted,

JOE CONWAY  
Attorney General

ALBERT M. GARCIA  
Assistant Attorney General

E. G. FRAZIER  
Special Assistant  
Attorney General